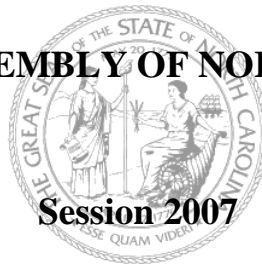


GENERAL ASSEMBLY OF NORTH CAROLINA



FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. **This is not an official fiscal note.** If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: April 17, 2008

TO: Revenue Laws Study Committee

FROM: Rodney Bizzell
Fiscal Research Division

RE: Simplify Ownership of PUV Property

FISCAL IMPACT

Yes (x)

No ()

No Estimate Available ()

FY 2008-09

FY 2009-10

FY 2010-11

FY 2011-12

FY 2012-13

REVENUES:

General Fund

No General Fund Impact

Local Governments

No significant impact – see assumptions and methodology

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: NC Local Governments;
NC Department of Revenue

EFFECTIVE DATE: Effective for taxable years beginning on or after July 1, 2008.

BILL SUMMARY:

This bill simplifies the ownership requirements of present-use value property and allows property to remain in present-use value if the owner pays deferred taxes at the time of transfer and the new owner continues to farm the land and files an application for present-use value status.

ASSUMPTIONS AND METHODOLOGY:

Ownership Requirements

The General Assembly provides special tax treatment for farmland if the property is used for agricultural, horticultural or forestry purposes. If the farmland meets certain ownership and size requirements and is engaged in commercial production under a sound management plan, the land may be appraised and taxed at its present-use value (PUV), rather than market value. When the land becomes disqualified from PUV, the deferred taxes for the current year and the previous three years become due.

The bill makes several changes to simplify the PUV ownership requirements. Currently, PUV land must be individually owned. This requirement can be satisfied by the following categories: natural persons, business entities, tenancy in common and trusts. To satisfy the definition of business entity, the entity must be composed of natural persons, and the members must be actively engaged in the business or be related to a member who is actively engaged in the business.

The current ownership requirements do not allow for a business entity, such as an LLC, to qualify if one of the members of the business is a trust. For example, if an LLC applies for PUV, and one of the members of the LLC is a trust, the property would not satisfy the ownership requirements because all of the members are not "natural persons," even though the members of the trust may be children of the members of the LLC.

The bill simplifies the ownership requirements by eliminating the requirement that all members of the business entity be natural persons. The definition of "individually owned" is changed to include "farms groups," directly or indirectly by individuals in the group. An indirect owner may be the beneficiary of a trust or a business entity. The definition of business entity specifically excludes publicly-traded corporations and clarifies that the business entity must have as its principal business one of the following: agriculture, horticulture, or forestry.

The proposed changes allow the tax assessor to consider the make-up of individual ownership without excluding beneficiaries of a trust who would otherwise be eligible. The changes are not expected to have any significant fiscal impact.

Payment of Deferred Taxes

The bill also allows land to remain in the PUV system if it is transferred to a new owner and the deferred taxes are paid at the time of the transfer. Current law requires the new owner to assume the deferred taxes. This section of the bill is also not expected to have any significant impact.

SOURCES OF DATA: NC Department of Revenue

TECHNICAL CONSIDERATIONS: None